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PPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO
09/780,940	02/12/2001	Donald R. Ricci	213202.00195	1694
27160 7	590 08/28/2003			
PATENT ADMINSTRATOR KATTEN MUCHIN ZAVIS ROSENMAN 525 WEST MONROE STREET			EXAMINER	
			SNOW, BRUCE EDWARD	
SUITE 1600 CHICAGO, IL 60661-3693			ART UNIT	PAPER NUMBER
,			3738	3
			DATE MAILED: 08/28/2003	l-

Please find below and/or attached an Office communication concerning this application or proceeding.

## Application No. Office Action Summary	· · · · · · · · · · · · · · · · · · ·	Application No.	Applicant(s)				
## Examiner Bruce E Snow 3738 - The MAILING DATE of this communication appears on the cover sheet with the correspondence address Period for Reply A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION. Entersease of time may be available under the provisions of 37 CPR 1.738(a), in no event, however, may a reply be timely filed. If the period for may be available under the provisions of 37 CPR 1.738(a), in no event, however, may a reply be timely filed. If the period for may be available under the provisions of 37 CPR 1.738(b), in no event, however, may a reply be timely filed. If the period for may be particle above, the maximum stabulatory periods will apply and vide equilin SX (b) MoNTH'S from the mailting time of the communication. Period for the major state of 15 communication. Any reply received by the Office interes have them them combined after the male glost of this communication. Period to the major districts of 15 communication. **Provision of Communication of the Major Status** 1 ② Responsive to communication(s) filled on 14 August 2003. 2a) ② This action is FINAL. 2b) ☐ This action is non-final. 3 ○ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11, 453 O.G. 213. Disposition of Cialms 4) ② Claim(s) 1-22 is/are pending in the application. 4a) Of the above claim(s) 4.11-13.16 and 22 is/are withdrawn from consideration. 5b) ○ Claim(s) 1-3.5-10.11.15.17 and 19-22 is/are rejected. 7c) ○ Claim(s) 1-3.5-10.11.15.17 and 19-22 is/are rejected. 7c) ○ Claim(s) 2-3.5-10.11.15.17 and 19-22 is/are rejected. 7d) ○ Claim(s) 2-3.5-10.11.15.17 and 19-22 is/are rejected. 7e) ○ The specification is objected to by the Examiner. 10) ○ The drawing(s) filled on 1-1.15.11.15.11.15.11.15.11.15.11.15.11.15.11.15.15							
Bruce E Snow 3738 Period for Reply A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION. If the period for reply specified above is less than thirty (30) days, a test period of the reply specified above is less than thirty (30) days, a test period of the reply specified above is less than thirty (30) days, a test period of the reply specified above is less than thirty (30) days, a test period of the reply specified above is less than thirty (30) days, a test period of the reply specified above is less than the tyto) days, a test period of the period of the period of the specified above is less than the tyto) days, a test period of the period of the period of the specified above is less than the tyto) days, and a department of thirty (30) days, will be considered threely. If the period for may is specified above is less than the test and the period of the communication of the period of the communication. If the period for may is specified above is less than the mailing date of this communication. Any reply received by the Office laser than three mostles after the mailing date of this communication, even if timely filed, may reduce any seemed patent the endition of the specified of the communication. Application is FINAL. 2b) This action is non-final. 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under Exparte Quayle, 1935 C.D. 11, 453 O.G. 213. Disposition of Claims 4) Claim(s) 1-22 lai/are pending in the application. 4) Claim(s) 1-32 lai/are pending in the application. 4) Claim(s) 1-35-10.14, 15, 17 and 19-22 is/are rejected. 7) Claim(s) 1-35-10.14, 15, 17 and 19-22 is/are rejected. 7) Claim(s) 1-35-10.14, 15, 17 and 19-22 lai/are rejected or b) objected to by the Examiner. Application Papers 9) The specification is objected to by the Examiner. Application Papers 9) The proposed drawing correction filed on is safare: a) accepted	Office Action Summany						
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3 Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under <i>Ex parte Quayle</i> , 1935 C.D. 11; 453 O.G. 213. Disposition of Claims 4 Claim(s) 1-22 is/are pending in the application. 4a) Of the above claim(s) 4.11-13.16 and .22 is/are withdrawn from consideration. 5 Claim(s) is/are allowed. 6 Claim(s) is/are allowed. 6 Claim(s) is/are objected to. 8 Claim(s) are subject to restriction and/or election requirement. Application Papers 9 The specification is objected to by the Examiner. 10 The drawing(s) filed on is/are: a) accepted or b) objected to by the Examiner. Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a). 11 The proposed drawing correction filed on is: a) approved b) disapproved by the Examiner. If approved, corrected drawings are required in reply to this Office action. 12 The oath or declaration is objected to by the Examiner. Priority under 35 U.S.C. §§ 119 and 120 13 Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f). a) All b) Some * c) None of: 1. Certified copies of the priority documents have been received. 2. Certified copies of the priority documents have been received in Application No 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)). * See the attached detailed Office action for a list of the certified copies not received. 14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 119(e) (to a provisional application). a) The translation of the foreign language provisional application has been received. 15 Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121. Attachment(s)	1) Responsive to communication(s) filed on 14	August 2003	•				
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Application/Control Number: 09/780,940

Art Unit: 3738

DETAILED ACTION

Allowable Subject Matter

Claims 6-10 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, second paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

All claims are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1, lines 11-12, "the proximal region" lacks antecedent basis. Does applicant mean "the proximal end"?

Claim Rejections - 35 USC § 102

- (a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.
- (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.
- (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

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Claims 1-3, 5, 15, 17, and 19 rejected under 35 U.S.C. 102(b) as being clearly anticipated by Jang (5,554,118).

Referring to all figures, specifically figure 1, Jang teaches a balloon catheter comprising a tubular member 12; an inflatable balloon 24; first lumen 22; second lumen 20 for receiving a guidewire having a first proximal opening 32 and a second distal opening either element 34 or 54; and first slit 40. Said second opening 34 is "disposed between a distal end of the first slit and the inflatable balloon" which does not exclude the slit being directly connected with the opening. Referring to column 10, lines 29-35, Jang teaches the slit 40 may extend beyond opening 32, interpreted by the Examiner as an option. It is also possible to interpret the second opening as element 54.

Note that the slit of Jang is formed in situ similar to applicant's figures 14a, 14b, 14c and has a pair of longitudinal side edges which allow for removal of the guidewire.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 14 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Jang (5,554,118).

Regarding claim 14, Jang teaches a balloon catheter as described above including the first and second lumen having a cross-section as claimed in claim 15.

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However, Jang fails to teach the first and second lumen having a circular cross-section. Lacking any criticality in the specification the use of both lumen having a circular cross-section in lieu of that taught by Jang produces no advantages in is considered an obvious matter of design choice.

Jang teaches a balloon catheter and guide wire as described above, however, does not teach a guide catheter. It would have been obvious to one having ordinary skill in the art to combine the catheter of Johnson et al and a guide catheter for procedures necessitating a guide catheter, such as to protect the balloon catheter during implantation.

Claim 21 is rejected under 35 U.S.C. 103(a) as being unpatentable over Jang (5,554,118) in view of Applicant's specification.

Johnson et al teaches a balloon catheter as described above, however, does not teach a stent in combination with said catheter. Applicant's specification, page 1, lines 9-10, teach "in recent years, balloon dilation catheters have also been used to facilitate delivery of endovascular prosthesis' such as stents." It would have been obvious to one having ordinary skill in the art to combine the catheter of Johnson et al and stent as taught by applicant for all the known reasoning of utilizing a stent.

Response to Arguments

Applicant's arguments with respect to all claims have been considered but are moot in view of the new ground(s) of rejection.

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Conclusion

Applicant's amendment including the new limitations added to claim 1 necessitated the new ground(s) of rejection presented in this Office action. Accordingly, THIS ACTION IS MADE FINAL. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Bruce E Snow whose telephone number is (703) 308-3255. The examiner can normally be reached on Mon-Thurs.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Corrine McDermott can be reached on (703)308-2111. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 305-3590 for regular communications and (703) 305-3590 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0858.

bes August 25, 2003

BRUCE SNOW PRIMARY EXAMINER